



GOVERNOR'S JUVENILE JUSTICE COMMISSION

JIM DOYLE, GOVERNOR

DEIRDRE GARTON, CHAIR • TASHA JENKINS, VICE CHAIR

January 29, 2008

Dear Members of the Wisconsin Senate Committee on Judiciary, Corrections, and Housing:

The Governor's Juvenile Justice Commission has reviewed S.B. 384 regarding extending access to juvenile court records, including juvenile CCAP. The Commission supports this legislation, with the limitations and caveats set forth below.

The Commission understands there is a need for improved information-sharing on a case-specific, statewide basis among law enforcement, human services, prosecutors, defense attorneys, courts, schools, and service providers, and existing statutes are not adequate to address this need. In February 2006, the Commission adopted "Principles for Information-Sharing in Juvenile Justice". I have enclosed that document, as well as a 2005 study entitled "Wisconsin Juvenile Justice Information Sharing Study" for your review. The Commission reviewed the proposed juvenile CCAP legislation by examining how well it met the principles set forth in those documents.

There are two primary principles that help frame the dialogue when considering whether to support information-sharing. The first principle is the **benefit principle**. When relevant information exists that would enable decision-makers in the juvenile justice system to make better decisions that are consistent with statutory intent and improve the lives of children, youth, families, and communities, that information should be made available in a timely and responsible manner to the decision-makers.

The proposed legislation gives juvenile CCAP access to law enforcement and human services, both of whom need relevant information in a timely manner to make good decisions. However, it may not be necessary to give prosecutors and courts, including municipal judges, access to juvenile CCAP. Prosecutors have other avenues to access the information contained in juvenile CCAP, and if the flow of information to those who need access is made more efficient, they the information will flow more efficiently to the prosecutors. Prosecutors receive their information from law enforcement and human services, and they already have access to a statewide database—PROTECT. Also, prosecutors and courts do not need to make immediate decisions regarding youth. They have more time to examine information and weigh its implications. It is human services and law enforcement who need to make "timely" decisions.

The second overarching principle that guides the Commission's analysis is the **privacy principle**. That principle states the privacy rights of individuals must also be a primary consideration in any discussion of policy and/or practice change. The rights of individual citizens should be specifically analyzed as part of the consideration of any proposal or policy related to the sharing of personal information about youth and families across systems in juvenile justice.

The Commission recognizes the paramount importance of protecting an individual's privacy. The advent of computers and databases has led to a "permanent record" that follows people in all aspects of their lives, from employment to housing to obtaining credit. To that end, the Commission recommends the penalty for violating the proposed law be a Class A Misdemeanor. As drafted, the proposed legislation states that any person who "intentionally" discloses information is subject to a \$5,000 fine. Since the disclosure must be intentional, it is appropriate that a criminal penalty attach.

In addition, the Commission recommends the statute contain language requiring training on using juvenile CCAP and the appropriate use of information gathered therefrom, and ensuring proper monitoring of those who have access to CCAP. Because of the damage unnecessary disclosure could cause, agencies need to understand the responsibility that goes along with the privilege of juvenile CCAP access.

The other, secondary principles that guided the Commission's decision are:

1. **Impact principle:** *The greater impact the decision has on the safety and welfare of the child, family, or community, and the more urgent the decision, the more important it is for the decision-maker to have access to relevant information that exists. In the proposed legislation, the impact principle supports human services and law enforcement access, but it does not support prosecutor or court access, as neither of those entities make quick decisions.*
2. **Accuracy principle:** *Information systems and user training should be developed to maximize the accuracy of information contained in records. Computers and databases have greatly increased the amount of personal information available to the public and the ease of obtaining that information. Therefore, it is imperative that the information contained in juvenile CCAP be accurate. A provision in the legislation requiring training of court clerks and others who enter data into CCAP is essential. People permitted access to "other" agency systems must be trained on how to access, view and interpret the information contained therein.*
3. **Efficiency principle:** *While there may be multiple ways for decision-makers to access information and records, there is some value to the system of permitting "efficient" access. The proposed legislation meets this principle in that it improves efficiency and allows more time for investigation and case planning.*
4. **Secondary Use principle:** *In order to better ensure the privacy and confidentiality interests of parties and to help ensure that information is used in a manner consistent with statutory intent, the Commission encourages the development of appropriate inter-agency agreements, memoranda of understanding, or other administrative practices to guide the sharing of information among entities. This principle addresses the need for training and development of protocols for juvenile CCAP use and monitoring.*

5. **Confidentiality principle:** *Access to information and/or data contained in one information system that would otherwise be prohibited from release should not be available unless proper authorization (via statute or proper release) is obtained.* This principle does not pertain to the proposed legislation since the release is limited by the terms of the statute.
6. **Perpetuation principle:** *Agencies receiving information should establish clear procedures and practices related to incorporating dated or "second hand" information into their records on an on-going basis. These procedures/practices must include proper documentation of the source of the information and some process to review the information before subsequent inclusion.* This principle is addressed in the **Privacy and Accuracy principles** discussion.
7. **Inclusion principle:** *Ultimately, the challenge of changing policy in the area of juvenile justice information-sharing will require a balancing of all of the above principles. To do so properly, policymakers must solicit input and information from a diverse constituency to ensure careful consideration of each change.* The Commission has already consulted with key stakeholders on the issue of increasing access to juvenile CCAP, and it is hoped the authors of the proposed legislation have as well.

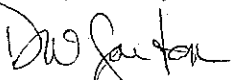
In summary, the Commission supports giving law enforcement and human services case-specific, statewide access to juvenile CCAP because the benefits outweigh the privacy concerns. However, because prosecutor and court access would be convenient, but is not necessary, and because the privacy concerns outweigh the benefits, the Commission does not support access for those entities.

In addition, the Commission recommends increasing the penalty for intentionally violated the statute from a monetary penalty to a Class A misdemeanor.

Finally, the Commission cannot emphasize enough the need to have training on how to use information obtained from juvenile CCAP and the need to develop protocols for use and for effective monitoring.

Thank you for your attention to this matter. Please contact me if you have any questions.

Respectfully,



Deirdre Garton, Chairperson
Governor's Juvenile Justice Commission



GOVERNOR'S JUVENILE JUSTICE COMMISSION

JIM DOYLE, GOVERNOR

DEIRDRE GARTON, CHAIR • JERRY JANSEN, VICE CHAIR

January 9, 2008

Rep. Joseph Parisi
Room 126 North
State Capitol
P.O. Box 8953
Madison, WI 53708

RE: CCAP access proposed legislation

Dear Rep. Parisi:

The Governor's Juvenile Justice Commission has reviewed the proposed juvenile CCAP access legislation sponsored by Senator Sullivan and Representative Jeskewitz. The Commission supports this legislation, with the limitations and caveats set forth below.

The Commission understands there is a need for improved information-sharing on a case-specific, statewide basis among law enforcement, human services, prosecutors, defense attorneys, courts, schools, and service providers, and existing statutes are not adequate to address this need. In February 2006, the Commission adopted "Principles for Information-Sharing in Juvenile Justice". I have enclosed that document, as well as a 2005 study entitled "Wisconsin Juvenile Justice Information Sharing Study" for your review. The Commission reviewed the proposed juvenile CCAP legislation by examining how well it met the principles set forth in those documents.

There are two primary principles that help frame the dialogue when considering whether to support information-sharing. The first principle is the **benefit principle**. When relevant information exists that would enable decision-makers in the juvenile justice system to make better decisions that are consistent with statutory intent and improve the lives of children, youth, families, and communities, that information should be made available in a timely and responsible manner to the decision-makers.

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need access is made more efficient, then the information will flow more efficiently to the prosecutors. Prosecutors receive their information from law enforcement and human services, and they already have access to a statewide database—PROTECT. Also, prosecutors and courts do not need to make immediate decisions regarding youth. They have more time to examine information and weigh its implications. It is human services and law enforcement who need to make “timely” decisions.

The second overarching principle that guides the Commission’s analysis is the **privacy principle**. That principle states the privacy rights of individuals must also be a primary consideration in any discussion of policy and/or practice change. The rights of individual citizens should be specifically analyzed as part of the consideration of any proposal or policy related to the sharing of personal information about youth and families across systems in juvenile justice.

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In addition, the Commission recommends the statute contain language requiring training on using juvenile CCAP and the appropriate use of information gathered therefrom, and ensuring proper monitoring of those who have access to CCAP. Because of the damage unnecessary disclosure could cause, agencies need to understand the responsibility that goes along with the privilege of juvenile CCAP access.

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Finally, the Commission cannot emphasize enough the need to have training on how to use information obtained from juvenile CCAP and the need to develop protocols for use and for effective monitoring.

Thank you for your attention to this matter. Please contact me if you have any questions.

Respectfully,


Deirdre Garton, Chairperson
Governor's Juvenile Justice Commission



State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Kevin R. Hayden, Secretary

January 29, 2008

TO: Senate Committee on Judiciary, Corrections and Housing
FROM: John Tuohy, Director of the Office of Program Evaluation and Planning in
the Division of Children and Family Services, DHFS
RE: Senate Bill 384

Good morning. I am John Tuohy, Director of the Office of Program Evaluation and Planning in the Division of Children and Family Services, and I am speaking on behalf of Reggie Bicha, DHFS Administrator for the Division of Children and Family Services. Senator Taylor and committee members, thank you for the opportunity to testify in favor of Senate Bill 384. Thank you also to Senator Sullivan and Representative Jeskewitz for authoring this bill that will assist child welfare agencies to ensure the safety of children. We appreciate you taking up this bill in a very timely manner.

As many of you know, the Circuit Court Automation Program (CCAP) system is used by courts to record petitions, schedule hearings and record actions taken in all court cases including child welfare and juvenile justice actions. Under current law, the Director of State Courts Office (DSCO) makes some information from CCAP available to the general public. Access to CCAP information regarding juvenile court actions, however, is restricted to clerks of court and county staff performing court intake functions.

Information on juvenile court actions, particularly juvenile delinquency, is important to child welfare agencies, including the state-run Bureau of Milwaukee Child Welfare, as they investigate child safety issues and make placements of children in out-of-home care. Knowledge of juvenile delinquency records for youth can be important to determine whether to remove children from the home, establish an in-home safety plan and select placement providers. Leaving vulnerable children in homes with delinquent youth or placing children with providers who have delinquent youth can put children at risk.

Child welfare staff currently contact clerks of court or court intake staff to obtain information on juvenile cases. However, the process is cumbersome and not feasible in emergency or after-hours situations. This can lead to children being left in vulnerable situations.

This bill will allow child welfare staff more timely access to the juvenile portion of the CCAP system. Child welfare staff will be able obtain the information more efficiently and will be able to access the information when courts are closed.

Under SB 384, the following child welfare staff would have authority to access juvenile records:

- Staff of the DHFS Bureau of Milwaukee Child Welfare and county human services and social services agencies.
- Staff of licensed child welfare agencies authorized to provide services to children under court jurisdiction

Authorized staff would use court records for the purpose of providing intake, dispositional, placement or other services for the court under the Children's or Juvenile Justice Codes. As I noted earlier, one of the most important uses will be to ensure that children are safe whether remaining in their home or being placed outside their home.

The Division of Children and Family Services is committed to working closely with the Director of State Courts Office to establish guidelines for how child welfare agencies can access juvenile information from CCAP and to maintain the confidentiality of the juvenile information.

Thank you again for the opportunity to testify in favor of SB 384. I am available to answer any questions you may have.